



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,161	09/08/2003	In Tae Hwang	2101-3159C1C1	1315

35884 7590 04/23/2009
LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES, CA 90017

EXAMINER

SHAND, ROBERTA A

ART UNIT	PAPER NUMBER
----------	--------------

2416

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

04/23/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@hlaw.com
ip.hlaw@gmail.com
ip.hlaw@live.com

Office Action Summary	Application No. 10/656,161	Applicant(s) HWANG, IN TAE	
	Examiner Roberta A. Shand	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25 and 40-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25 and 40-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/11/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

2. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

3. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 25 and 40, 42-51 and 53- 61 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6788652. Although the conflicting claims are not identical, they are not patentably distinct from each other.

5. Regarding claim 25, claim 4, of patent 6788652 recites three data transmission mode entities, the at least three data transmission mode entities including: a transparent mode RLC entity having adapted to control the transmission of data units between the RRC layer and the MAC layer (claim 4 does not recite MAC and RRC layers however, these layers are implied in the claims when stating upper and lower layer) by segmenting and reassembling data units that have no headers (claim 8); an unacknowledged mode RLC entity adapted to control the

Art Unit: 2416

transmission of data units between the RRC layer and the MAC layer by framing and deframing data units and detect and discard data units that contain an error; and an acknowledged mode RLC entity adapted to control the flow of data units between the RRC layer and the MAC layer by framing and deframing data units and by error correction (claim 4 recites correcting errors in the PDU or retransmitting which is controlling the flow)

6. Claim 25 does not recite framing and deframing. However, framing and deframing are normal functions during packet processing.

7. Although claim 4 is a method claim it teaches the all of the parts of the system in claim 25.

8. Regarding claim 40, claim 6, teaches the at least three data transmission mode entities in the RLC layer are further adapted to transfer data units between the RLC layer and the MAC layer through one of a plurality of service access points (fig. 2, 13) associated with the MAC layer.

9. Regarding claims 42-46 and 53-57, claim 2 teaches the plurality of service access points includes a broadcast control channel (BCCH) service access point, paging control channel (PCCH), data traffic channel (DTCH), data control channel (DCCH), and common control channel (CCCH). Claim 2 recites BCE, PNCE and DCE which are entities which imply channels are used to transport data.

10. Regarding claim 47, claim 4 recites receive a plurality of protocol data units from the MAC layer, reassemble the protocol data units into a service data unit and transfer the service

Art Unit: 2416

data unit to the RRC layer through one of a plurality of service access points associated with the RLC layer (claim 4 does not recite MAC and RRC layers however, these layers are implied in the claims when stating upper and lower layer).

11. Regarding claims 48 and 59, claim 6 recites the plurality of service access points associated with the RLC layer includes a transparent service access point (T-SAP).

12. Regarding claim 49, 50, 60 and 61, claim 6 recites the plurality of service access points associated with the RLC layer includes an unacknowledged service access point (UNACK-SAP) and an acknowledge service access point (ACK-SAP).

13. Regarding claims 51 and 58, claim 4 recites a method of transferring data units from the RRC layer to the MAC layer (claim 4 does not recite MAC and RRC layers however, these layers are implied in the claims when stating upper and lower layer), the method comprising: receiving a service data unit from the RRC layer at one of at least three transmission mode entities in the RLC layer; processing the service data unit, where processing includes one of: segmenting the service data unit into a plurality of protocol data units, using a transparent mode RLC entity if the service data unit has no header (claim 8), segmenting the service data unit into a plurality of protocol data units and framing the protocol data units, using an unacknowledged mode RLC entity, and segmenting the service data unit into a plurality of protocol data, framing the protocol data units and correcting a protocol data unit that contains an error, using an acknowledged mode RLC entity, and; transferring a plurality of protocol data units from the one

Art Unit: 2416

transmission mode entity in the RLC layer to the MAC layer through one of a plurality of service access points associate with the MAC layer (claim6).

14. Claim 25 does not recite framing and deframing . However, framing and deframing are normal functions during packet processing.

15. Claims 41 and 52 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No. 6788652 B1 in view of Joshi (U.S. 6975868 B2.)

16. Regarding claims 41 and 52, U.S. Patent No. 6788652 B1 does not teach the plurality of service access points includes a supplemental code channel (SCCH) service access point.

17. Joshi teaches (fig. 1) supplemental code channel (SCCH). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify U.S. Patent No. 6788652 B1 to include Joshi to provide transmission at full rate.

Response to Arguments

18. Applicant's arguments with respect to claims 25 and 40-61 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

20. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberta A. Shand whose telephone number is (571)272-3161. The examiner can normally be reached on M-F 9:00am-5:30pm.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2416

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Roberta A. Shand

/R. A. S./

Examiner, Art Unit 2416

/William Trost/

Supervisory Patent Examiner, Art Unit 2416